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March 19, 2020

BY ECF AND EMAIL

Honorable Katherine Polk Failla
United States District Judge
United States Courthouse
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: Rivera et al v. Midtown Catch Corp.
19-cv-02574-KPF

Dear Judge Failla:

I am an attorney for Plaintiff in the above-referenced matter. I write jointly with Defendants' attorney to respectfully request an extension of the discovery deadline from March 19, 2020 to May 7, 2020, and to request adjournment of the conference scheduled for March 26, 2020 at 11:00 a.m. This letter also serves as a status report, in the event that the conference is not adjourned.

The reason for the request to extend discovery is that Defendants have not provided responses and document production in response to Plaintiff's document requests and interrogatories, served December 11, 2019, as of today. Defense counsel was supposed to meet with his client last Friday which was cancelled and then on Tuesday which was also canceled due to the Corona virus. The parties have conferred and desire an extension of time for Defendants to complete responses, and potentially for depositions if the parties decide to take them in this case. Plaintiff reserves all rights to seek appropriate sanctions against Defendants in the event that the Court does not extend the discovery deadline or if Defendants continue not to produce documents and respond to Plaintiff's requests.

The parties also respectfully request an adjournment of the conference scheduled for March 26, 2020.

In the event that the Court does not adjourn the conference, the parties respectfully request permission to appear by phone due to the ongoing COVID-19 pandemic.

(1) Current Deadlines

The deadline for completion of discovery is today, March 19. The deadline for submission of a pre-motion conference letter for summary judgment motion, or joint pretrial order if no motion is contemplated, is April 20, 2020.

(2) Outstanding Motions

There are no outstanding motions, except for the above letter motion for an extension of time to complete discovery and adjournment of the March 26 conference.

(3) Status of Discovery

As noted above, Defendants have not responded to Plaintiff's document requests and interrogatories. The parties also have not completed deposition, due to Defendants' delay in responding to discovery.

(4) Settlement Discussions

The parties have had minimal settlement discussions. The parties do believe that the action can settle, and request a settlement conference to assist the parties.

(5) Length of Trial

The trial is anticipated to take three days, and is to be by jury.

(6) Summary Judgment

The parties do not anticipate moving for summary judgment.

We thank the Court for its attention to this matter,

Respectfully submitted,

Joshua S. Androphy

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On November 15, 2019, the Court adopted the parties' proposed Case Management Plan, which required the parties to conclude fact discovery on or before March 19, 2020. (Dkt. #27). On March 19, 2020, the day fact discovery was set to close, the Court was informed for the first time that the parties are nowhere near completing fact discovery. Defendants have yet to respond to Plaintiff's document requests or interrogatories, and no depositions have taken place.

Counsel have not offered any satisfactory explanation for their failure to complete discovery in a timely manner, or their failure to request Court intervention at an earlier date. In light of this, the Court would ordinarily be disinclined to grant an extension of discovery. Nevertheless, due to the extraordinary circumstances of the moment, the Court will grant a one-time extension of discovery, to May 7, 2020.

The pretrial conference currently scheduled for March 26, 2020 is hereby ADJOURNED to May 12, 2020, at 4:00 p.m. in in Courtroom 618 of the Thurgood Marshall Courthouse, 40 Foley Square, New York, New York.

Dated: March 20, 2020
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE